



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: October 27, 2014

Date of Meeting: November 1, 2014

Submitted by: Trustees of Trust Funds Chairman Chris Christensen

Department:

Time Required: 10 minutes

Speakers:

Background Info. Supplied: Yes: ☒ No: ☐

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment: ☐

Recognition/Resignation/
Retirement: ☐

Public Hearing: ☐

Old Business: ☐

New Business: ☒

Consent Agenda: ☐

Nonpublic: ☐

Other: ☐

TITLE OF ITEM

Advisory Fees for Trust Fund Management

DESCRIPTION OF ITEM

Town Council to consider authorizing the Trustees of Trust Funds to charge any expenses incurred in a contractual arrangement for the management of any capital reserve funds for which they have been granted custody pursuant to RSA 35 against the capital reserve funds involved.

REFERENCE (IF KNOWN)

RSA: 35

Warrant Article:

Charter Article:

Town Meeting:

Other:

N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector: ☐

Grant Requirements: ☐

Easel: ☐

Joint Meeting: ☐

Special Seating: ☐

Other: ☐

Laptop: ☐

None: ☐

CONTACT INFORMATION

Name: **Chris Christensen**

Address

Phone Number

Email Address

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APPROVAL



**Town of Merrimack, NH
Trustees of Trust Funds
Town Council Meeting
November 6, 2014**



Overview

There are three elected Trustees of Trust Funds, Jack Balcom, Chris Christensen and Bill Wilkes. We operate under authority of RSA 31 and 35. There are links to the specific sections on our website.

We have three primary functions

- A. Establish the investment policy for the Town and the Trustees
- B. Oversee the management of Capital Reserve Funds for the Town, School District and the Merrimack Village District.
- C. Oversee the management of permanent funds. These include bequests and funds for cemetery perpetual care.

Cumulative fund totals are approximately \$10,000,000 in capital reserve funds and \$5,000,000 in permanent funds. Our activities are audited annually, and copies of state mandated reports go to the Department of Justice, the Department of Revenue Administration and the Town Council. These reports are published in the Town's annual report and are also available on our web site.

Purpose

We are here tonight as a matter of compliance with recent changes to the RSA's regarding compensation of fund managers. A copy of HB297 and a resolution is in your packet.

As often happens with legislation, this bill authorizes practices that have been ongoing. For example, Trustees across the state have been keeping their records electronically, and filing reports with the Attorney General and the Department of Revenue Administration electronically as well. Instead of being silent, HB297 now specifically authorize this practice.

Likewise, the law has been partially silent on management fees for Capital Reserve Funds. Previously, the law specifically allowed compensation for management fees charged by the Public Deposit Investment Pool (PDIP) and mutual funds. It was silent on compensation of banks, brokerage houses, and other fund administrators. HB297 now authorizes such compensation, but requires specific action on the part of the legislative body to authorize such payment and stipulates that once authorized, cannot be retracted within five years.

Action

We note that many statutes provide specific language. HB297 leaves that up to the Towns.

The Trustees request that the resolution drafted by Paul Micali be adopted.

CHAPTER 32

HB 297 – FINAL VERSION

08Jan2014... 2381h

2014 SESSION

13-0556

08/04

HOUSE BILL **297**

AN ACT relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

SPONSORS: Rep. F. Rice, Rock 21; Rep. Roberts, Ches 4; Rep. Hagan, Rock 4; Rep. Emerick, Rock 21; Sen. Stiles, Dist 24; Sen. Boutin, Dist 16

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill:

- I. Allows municipalities to keep certain trust records in electronic format.
- II. Changes the date by which certain municipal sums shall be transferred.
- III. Allows municipalities to contract for brokerage assistance with town trust funds.
- IV. Allows library trustees to govern investments through application of the prudent investor rule.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

08Jan2014... 2381h

13-0556 08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

32:1 Trust Funds; Records. Amend RSA 31:34 to read as follows:

31:34 Records. The trustees shall keep a record of all trusts in a record book ***or maintained in electronic format***, which shall be open to the inspection of all persons in their town.

32:2 Trust Funds; Reports. Amend RSA 31:38 to read as follows:

31:38 Reports. A copy of the reports required of the town and city trustees and of the auditor thereof shall be filed annually with the attorney general, ***the department of revenue administration, and with the governing body of the town or city.***

32:3 Appropriation. Amend RSA 35:12 to read as follows:

35:12 Appropriation. Whenever the vote of the town is to appropriate any sum for the capital reserve fund, the same duties shall devolve upon the town clerk, selectmen, and town treasurer, as specified in RSA 35:11, except that the order must be drawn, and the sum transferred on or before December ~~[31]~~ ***15*** following the vote, or, in the case of an optional fiscal year town, after July 1, but no later than June ~~[30]~~ ***15***, of the fiscal year for which the sum was appropriated.

32:4 New Section; Professional Banking or Brokerage Assistance. Amend RSA 34 by inserting after section 15 the following new section:

34:16 Professional Banking or Brokerage Assistance.

I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized by this chapter may contract with the trust department or departments of a bank, a brokerage firm, a portfolio management department, or investment advisor in the same manner and for the same purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a trust department or departments of a bank a brokerage firm, a portfolio management department, or investment advisor to facilitate transfers for such securities. Capital reserve fund records maintained by any bank, brokerage firm, portfolio management department, or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments of banks, brokerage firms, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments or brokerage firms subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees. For purposes of this section, the terms "bank," "brokerage firm," "portfolio management department," and "investment advisor" shall have the definitions set forth in RSA 31:38-a.

II. The governing body may authorize the trustees of trust funds to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved, and such authority shall remain in effect until rescinded by the governing body. No vote by the governing body to rescind such authority shall occur within 5 years of the original adoption of such article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.

32:5 New Section; Professional Banking or Brokerage Assistance. Amend RSA 35 by inserting after section 9 the following new section:

35:9-a Professional Banking or Brokerage Assistance.

I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized by this chapter may contract with the trust department or departments of a bank, a brokerage firm, a portfolio management department, or investment advisor in the same manner and for the same purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a trust department of a bank, or departments, a brokerage firm, a portfolio management department, or investment advisor, to facilitate transfers for such securities. Capital reserve fund records maintained by any bank, brokerage firm, portfolio management department, or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments of banks, brokerage firms, portfolio management departments, or investment advisor, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments or brokerage firms subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees. For purposes of this section, the terms "bank," "brokerage firm," "portfolio management department" and "investment advisor" shall have the definitions set forth in RSA 31:38-a.

II. The town meeting may adopt an article authorizing the trustees of trust funds, without further action of the town meeting, to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved. Such authority shall remain in effect until rescinded by a vote of the town meeting. No vote by the town to rescind such authority shall occur within 5 years of the original adoption of such article. In a town that has a town council, such authority may be granted by the town council and shall remain in effect until rescinded by the town council. No vote by the town council to rescind such authority shall occur within 5 years of the original adoption of such article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.

32:6 Library Trustees; Exceptions. Amend RSA 202-A:23 to read as follows:

202-A:23 Exceptions. Nothing in this chapter shall preclude the library trustees from accepting, receiving, investing, and administering directly any trust funds and donations when so specified by the donor. Library trustees administering and investing such special funds shall be governed by the provisions of RSA 31:25, ***RSA 31:25-d***, and RSA 41:6.

32:7 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 27, 2014

Effective Date: July 26, 2014